

08 NOV 2005

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Alexandria, VA 22313-1404

In re Application of	:	
Ignacio BLANCO BLANCO	:	
Application No.: 10/549,759	:	DECISION ON PETITION
Filing Date: 19 September 2005	:	UNDER 37 CFR 1.182
Attorney Docket No.: 034284-003	:	
For: USE ALPHA-1 ANTITRYPSIN FOR THE	:	
PREPARATION OF MEDICAMENTS	:	
FOR THE TREATMENT OF	:	
FIBROMYALGIA	:	

This decision is in response to applicant's "Petition to Convert 35 U.S.C. 371 Application to 35 U.S.C. 111 Application" filed in the United States Patent and Trademark Office on 06 October 2005, which is being treated as a Petition under 37 CFR 1.182. The \$400 petition fee will be charged to Deposit Account 02-4800, as authorized.

BACKGROUND

On 19 September 2005, applicant filed a Transmittal Letter to the United States Designated/Elected Office Concerning a Filing Under 35 U.S.C. 371 (Form PTO-1390) requesting processing of the instant application as a national stage application of an international application under 35 U.S.C. § 371 accompanied by: a declaration; a description, claims, and abstract. However, the Transmittal Letter did not identify the international application (by application number) of which the instant application papers are to be treated as the national stage. The papers submitted 19 September 2005 have been assigned application number 10/549,759.

On 06 October 2005, applicant filed "Petition to Convert 35 U.S.C. 371 Application to 35 U.S.C. 111 Application" which indicated that, "the application was inadvertently designated as a §371 application, when it should have been filed as a utility application claiming benefit of an earlier foreign filed application under 37 U.S.C. §119."

DISCUSSION

As stated above, the Transmittal Letter did not identify the international application (by application number) of which the instant application papers are to be treated as the national stage, therefore, this application cannot presently be processed under 35 U.S.C. §371. However, the transmittal letter of 19 September 2005 was clearly an application for a United States patent. Applicant erred in identifying the application as

a national stage application. The application papers contained all the elements necessary to obtain a filing date under 35 U.S.C. 111(a) and 37 CFR 1.53(b). Since applicant cannot proceed under 35 U.S.C. 371 and applicant has filed the necessary papers under 35 U.S.C. 111(a), it is appropriate in this instance to grant applicant's petition, construed as a petition under 37 CFR 1.182, to accept the papers filed on 19 September 2005 as an application filed under 35 U.S.C. 111(a).

CONCLUSION

As so construed, the above-noted petition is **GRANTED**.

This application is being forwarded to the Office of Initial Patent Examination for processing as an application filed under 35 U.S.C. 111(a) with a filing date of 19 September 2005.



Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-0459